

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

-

WRIT PETITION NO : 14824 of 2004

Between:

- 1 Sunil Agarwal, S/o Prabhu Dayal Agarwal,
R/o Banjara Hills, Hyderabad
- 2 M/s S.Square Constructions,

a registered partnership firm, rep.by its Partner Sri Rajkumar Kabra,
S/o Vishwambarlal Kabra, R/o H.No.5-10-189, Adarshnagar,
Hyderabad

..... PETITIONER(S)

AND

- 1 Municipal Corporation of Hyderabad, Tankbund Road, rep.by its Commissioner
- 2 The Chief City Planner, MCH, Tankbund Road, Hyderabad

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in refusing to entertain the building application form pertaining house plot bearing No.262/A in Sy.No.403/1 in Ward No.8, Block No.1, admeasuring 600 sq.yards, situated at Shaikpet Village, Road No.12, Jubilee Hills, Hyderabad and insisting NOC from the Collector, Hyderabad is illegal, arbitrary and unconstitutional and consequently direct the respondents to entertain building application form without insisting for NOC in

accordance with the Municipal bye-laws.

Counsel for the Petitioner:MR.B.VIJAYSEN REDDY

Counsel for the Respondents: SMT.G.JYOTHI KIRAN, Standing Counsel

The Court at the stage of admission made the following ORDER:

Heard Sri B.Vijayasen Reddy, learned Counsel for the petitioners and learned Standing Counsel for MCH appearing for respondents.

The petitioners claim to have purchased house plot bearing No.262/A in Survey No.403/1 in Ward No.8, Block No.1, admeasuring 600 square yards situated at Shaikpet Village, Road No.12, Jubilee Hills, Hyderabad, from Sri D.Ravindra Naik under a registered sale deed dated 26-03-2004. Thereafter, in order to construct a building, they approached the respondent authorities seeking permission for the same with all relevant documents but the respondent authorities insisted them for production of No Objection Certificate (NOC) from the District Collector, Hyderabad. In view of the same, petitioners filed the present writ petition.

A Division Bench of this Court in **POTTERIES PRIVATE LIMITED v. COLLECTOR, HYDERABAD** held as under:

“ The Commissioner is required to make pragmatic assessment of the material available on record and decide the question of prima facie title and lawful possession of the applicants. The applications for grant of permission cannot be rejected solely on the basis of TSLR entries. After all, the decision to grant permission itself would not confer any title upon the applicant, nor it would take away the rights of the objection(s) whether the Government or any individual, for asserting their right, title and interest in the land in respect of which permission has been granted and dispute the title in any manner known to law. Similarly, the Commissioner is not entitled to decide any dispute questions of title or the ownership. All that the Commissioner required to do is to find out prima facie title and lawful possession of the applicant and obviously such consideration is confined to only for the purpose of granting permission and nothing more.”

In view of the same, the respondents cannot insist the petitioners for production of NOC.

The writ petition is disposed of in the light of the above cited decision. No costs.

20th AUGUST, 2004.

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To

1 The Commissioner, Municipal Corporation of Hyderabad, Tankbund Road, Hyderabad.

2 The Chief City Planner, MCH, Tankbund Road, Hyderabad

3 Two CD copies.

